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14 **UNITED STATES DISTRICT COURT**  
15 **NORTHERN DISTRICT OF CALIFORNIA**  
16 **SAN FRANCISCO DIVISION**

17 AMY GITSON *et al.*,  
18  
19 Plaintiffs,  
20  
21 v.  
22 TRADER JOE'S COMPANY,  
23  
24 Defendant.

Case No. 13-CV-1333 VC

**JOINT STATUS UPDATE RE:  
SCHEDULING OF MANDATORY  
SETTLEMENT CONFERENCE AND  
~~PROPOSED~~ ORDER**

Judge: Hon. Joseph C. Spero

TAC Filed: April 3, 2014  
Trial Date: March 23, 2015

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JOINT STATUS UPDATE RE:  
SCHEDULING OF SETTLEMENT  
CONFERENCE;  
13-CV-1333 VC

1 In accordance with this Court's order entered on September 3, 2014, and attached as  
2 Exhibit 1, Plaintiffs Amy Gitson and Deborah Ross and Defendant Trader Joe's Company  
3 (collectively, the "Parties"), respectfully submit this joint status update regarding the scheduling  
4 of the mandatory settlement conference in this matter. On November 13, 2014, Judge Chhabria  
5 continued the current stay of this lawsuit *at least* until the next case management conference  
6 scheduled for March 24, 2015. Accordingly, the Parties believe they are not in the position to  
7 engage in meaningful settlement discussions and propose that they provide a further status update  
8 on the scheduling of the mandatory settlement conference after the March 24, 2015 case  
9 management conference.

10 This matter was previously scheduled for a settlement conference on May 5, 2014. On  
11 April 28, 2014, the Parties submitted a joint stipulation requesting that this Court vacate that  
12 settlement conference. At that time, Trader Joe's had two motions pending—a motion to dismiss  
13 Plaintiffs' Third Amended Complaint (Dkt. No. 82) and a motion to certify for interlocutory  
14 appeal (Dkt. No. 74). A central issue raised by both motions was whether Plaintiffs have standing  
15 to assert claims as to approximately 177 products they did not purchase. The Parties requested a  
16 continuance of the settlement conference, because they did not believe they were in the position  
17 to engage in meaningful settlement discussions until this issue was resolved. On April 28, 2014,  
18 this Court vacated the May 5, 2014 settlement conference and continued it until a date  
19 approximately 60 days after the entry of an order on Trader Joe's motion to dismiss, or 60 days  
20 after entry of an order on Trader Joe's motion to certify for interlocutory appeal, whichever came  
21 later.

22 On August 8, 2014, Judge Chhabria entered a single order on both motions. (Dkt. No.  
23 101.) Judge Chhabria denied the motion for interlocutory appeal. (*Id.* at 2-3.) As to Trader Joe's  
24 motion to dismiss, he stayed the entire case on primary jurisdiction grounds (*id.* at 3-4), and  
25 denied the remainder of Trader Joe's motion to dismiss without prejudice to re-filing once the  
26 stay is lifted (*id.* at 4). Judge Chhabria also set a case management conference for November 4,  
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28

2014,<sup>1</sup> at which conference he would revisit the propriety of maintaining the stay. (*Id.*) And so, although Judge Chhabria rules on both motions, the pleadings in this matter remained unsettled.

Therefore, the Parties requested that this Court enter an order directing the Parties to submit a joint status update to this Court after the case management conference in November, wherein they would report on (1) the status of the stay; (2) if the stay is lifted, whether Trader Joe's intends to re-file its motion to dismiss the Third Amended Complaint and, if so, by which date the Parties anticipate the motion will be resolved; and (3) if the stay is lifted and Trader Joe's refiles its motion to dismiss the Third Amended Complaint, the date by which the Parties will jointly contact Judge Spero's chambers to select a settlement conference date.

On November 13, 2014, Judge Chhabria took the November case management conference off calendar and continued it to March 24, 2015, and did not lift the stay. In short, the Parties are in no different position than when they last submitted an update to this Court. Therefore, the Parties propose, that within ten days of the next case management conference in this matter, which is presently scheduled for March 24, 2015, they will jointly submit a status update wherein they will report on (1) the status of the stay; (2) if the stay is lifted, whether Trader Joe's intends to re-file its motion to dismiss the third amended complaint and, if so, by which date the Parties anticipate the motion will be resolved; and (3) if the stay is lifted and Trader Joe's refiles its motion to dismiss the Third Amended Complaint, the date by which the Parties will jointly contact Judge Spero's chambers to select a settlement conference date.

Dated: November 14, 2014

O'MELVENY & MYERS LLP

By: s/ Kate Ides

Kate Ides

Attorneys for Defendant  
Trader Joe's Company

<sup>1</sup> Judge Chhabria subsequently continued the case management conference scheduled for November 4, 2014, to November 13, 2014.

1 Dated: November 14, 2014

CLIFFORD LAW OFFICES, P.C.

2 By: s/ Colin H. Dunn

3 Colin H. Dunn

4 Attorneys for Plaintiffs

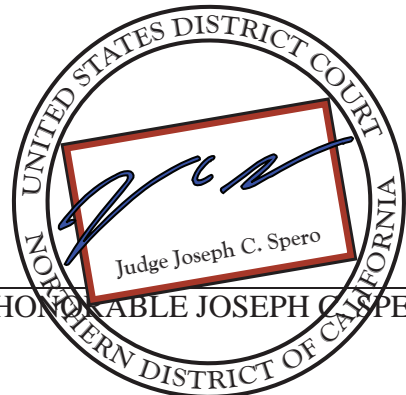
Amy Gitson and Deborah Ross

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6 **~~PROPOSED~~ ORDER**

7 Having reviewed the Parties' joint status update regarding the scheduling of the  
8 mandatory settlement conference in this matter, it is hereby ordered that within 10 days of the  
9 next case management conference, which is currently scheduled for March 24, 2015, the Parties  
10 will jointly submit a status update to this Court wherein they will report on (1) the status of the  
11 stay; (2) if the stay is lifted, whether Trader Joe's intends to re-file its motion to dismiss the third  
12 amended complaint and, if so, by which date the Parties anticipate the motion will be resolved;  
13 and (3) if the stay is lifted and Trader Joe's refiles its motion to dismiss the Third Amended  
14 Complaint, the date by which the Parties will jointly contact Judge Spero's chambers to select a  
15 settlement conference date.

16  
17 **IT IS SO ORDERED.**

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19 Dated: 11/17/14



20 THE HONORABLE JOSEPH C. SPERO

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